

City of Key West
CITIZEN REVIEW BOARD

**Annual Report
for
2008**



February 15, 2009

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2008 Annual Report

CITY OF KEY WEST CITIZEN REVIEW BOARD

I. Introduction

The City of Key West Citizen Review Board (CRB) has been actively reviewing complaints filed by citizens against Key West Police Officers since January 2004. This report was based on data and events occurring in the calendar year of 2008¹ which will be considered the "reporting period". This report is intended to give the reader an overview of the progress of the Board's efforts and major activities undertaken by the CRB during this reporting period. Readers may obtain a copy of this report and previous annual reports by visiting the City of Key West web site www.keywestcity.com and then selecting CRB under the city department drop down menu. This report is submitted in accordance with Section 1.07(X) of the Charter of the City of Key West.

Like other municipal governmental departments throughout the State of Florida, the CRB has faced considerable limitations on funding its operations based on the state wide financial crisis. Despite said financial limitations, the CRB has continued to progress forward with its goal of increasing the public's confidence in the City of Key West Police Department's (KWPD) ability to fairly and thoroughly investigate citizen complaints. In 2008, the CRB is doing more, with less. The CRB has a current budget of \$85,422.00 for the FY08-09, down 13.1% from previous year, which equates to .0023% of the general fund FY08-09.²

The CRB would like to take this opportunity to recognize the ongoing professionalism of the KWPD members and this report, and its recommendations herein, is by no means meant to overshadow this fact. The KWPD, under its current leadership, reflects a professional crime fighting organization and the CRB is appreciative of KWPD ongoing efforts. Chief Lee has moved the organization closer to the community and the CRB and he routinely weighs all

¹ Previous reports were based on fiscal and/or July-June period and no report was generated by the CRB on data from July 1, 2006-December 31, 2007. Thus, the executive decision was made to convert to a standard calendar year reporting period as other City departments. Budget constraints, which will be more fully itemized within this report, prevent and extensive evaluation and/or yearly comparisons of periods other than the reporting period and these same budget constraints strictly limit the capacity of the CRB to produce a more detailed annual report.

² FY07-08 the CRB budget was \$98,282.00. Originally the CRB was established with a \$200,000.00 projected annual budget.

stakeholders' interests when setting his department's policies. The KWPD truly is protecting paradise.

We hope that this report will enable the reader to understand the role of the CRB. If there are any questions, please call Executive Director Stephen C. Muffler, Esquire at (305) 809-3887 or email us at crb@keywestcity.com.

The Entrance of the "Working Agreement" between the CRB & KWPD
(Negotiated during October 2008-December 2008 and entered into force on January 27, 2009)



From Left to Right Seated: Chief Donald Lee & CRB Chairman Bryan Green
Standing: Executive Director Stephen Muffler & Lt. David Smith

Special thanks to the City of Key West IT Department for its ongoing technical assistance to the CRB and its operations.

II. About The Citizen Review Board

What is the CRB?

Key West voters created the Citizen Review Board (CRB) on November 5, 2002. Seven (7) Key West citizens review complaints filed by the public against Key West Police Officers for alleged misconduct. Pursuant to City Charter Provision 1.07 II, the City Commission appointed the original first four (4) of the seven (7) board members and three (3) board members were interviewed and selected by the initial four (4) board members. The appointments to the respective seats to fill vacancies are likewise mandated by this process. Board members can serve no more than nine (9) consecutive years and terms are staggered so that no more than three (3) board members' terms will expire in any given year. The CRB has subpoena power under City Charter Provision 1.07 I (d) and has the ability to conduct its own independent investigations. The CRB has three (3) positions mandated by the City Charter Provision 1.07 IX (c) which include the Executive Director, Legal Counsel and clerical assistance.³

Mission Statement

The mission of the CRB is to promote public confidence in the professionalism and accountability of the police officers of the Key West Police Department (KWPD).

Purpose

The purpose of the CRB is to establish guidelines for the receipt and processing of allegations of KWPD police misconduct in compliance with the Charter of the City of Key West Article I, Chapter 1.07. The CRB also independently reviews citizen complaint investigations against KWPD police officers, recommends changes in departmental policy, and when deemed appropriate by the Board, conducts an independent investigation of citizen complaints. The CRB forwards findings and/or recommendations to City management, the Chief of Police, State Attorney, other state and federal law enforcement agencies and/or grand juries if appropriate.

³ The CRB desired to deliver a more detailed statistically rooted Annual Report, but the increased resources and manpower needed to accomplish this would severely strain the assigned present budget.

III. Members of the Citizen Review Board

The City of Key West Citizen Review Board is composed of seven residents of the City of Key West. The City Commission appointed four (4) members from nominations from community based civic and social service organizations. The original four (4) members then selected three (3) additional members from applications submitted by the general public. As with other boards and commissions, these are unpaid positions. The term in office for each Board member is four (4) years and a board member can serve no more than nine (9) consecutive one (1) year terms.

The Executive Director of the CRB is contracted with the City of Key West and reports to the Chairman of the Board. Amanda Willett-Ramirez performed these duties from January 1, 2008 through mid-September 2008 and then transferred to the City's legal department. Stephen C. Muffler, Esquire performed these duties from October 2008 through the end of the reporting period.

Board members have received training through various sources. These sources included participation in I-COP seminars offered by the KWPD, several presentations by Executive Director Muffler, and two (2) members, Mark Kielsgard and Kevin Collins, attended the National Association of Civilian Oversight of Law Enforcement (NACOLE) Conference and workshops at NACOLE'S Annual meeting in Cincinnati Ohio in October of 2008. Both members thereafter briefed the other Board members as to the information learned and materials from the NACOLE conference were made available to the entire Board via the Board's website.

The board members who served in 2008 are:

Bryan Green, Chairman. Bryan Green moved to Key West in 2000 with his partner Tony Konrath. He is the Chairman of the Citizens Review Board. He is also Vice Chairman of the Performing Arts Center of Key West (Tennessee Williams Theater) and an Associate Board member of Wesley House and has served on a number of Not For Profit Boards including the Key West Business Guild and the FRC for Aids Help Inc. He also remains on the Board of a number of Charities and Trusts in the UK covering Drug Addiction and Rehabilitation and is past Chairman of War on Want, one of Europe's largest agencies fighting poverty in developing countries. Bryan is a member of the Royal Institute of British Architects, Fellow of the Chartered Society of Designers and was appointed to the Royal Victorian Order in recognition of his work for the British

Government and the Prince's Trust on urban villages and affordable housing. He remains an advisor to HM Government in addition to his daytime job as Chairman of a group of Architect practices in London and Dublin currently designing a wide range of developments from airports to hotel to industrial parks throughout Continental Europe. **The Board appointed Bryan Green and his term expires June 2011, but subject to renewal.**

Kevin Collins, Vice Chairman. Kevin D. Collins is a five year resident of Key West. He attended graduate school at New York University in the field of clinical psychology. While living in the city Kevin was employed by the NYC Health and Hospitals Corporation at Bellevue Hospital Center and taught as an Adjunct Professor. Eventually he moved to Connecticut where he worked as the Director of Children and Family Services for a private substance abuse hospital. In 1995 he opened a private practice in Ridgefield Connecticut. Since moving to Key West, Kevin has been employed by Wesley House Family Services in a number of positions. Currently he is the Director of Continuous Quality Improvement and Contract Management. He is a graduate of the 2008 Key West Ambassador Class and volunteers his time at The Tropic Cinema, Habitat for Humanity, and the Cooking With Love Program. **The City Commission appointed Kevin Collins to replace Adare Fritz and his term expires June 2009, but subject to renewal.**

Virginia Altobello, Member. Virginia Altobello was born in Manhattan New York and graduated cum laude with an AA degree from Fairleigh Dickinson University. Virginia Altobello first arrived in Key West in 1961 with Naval Officer husband. In 1983, after many winters visiting, moved here permanently. Virginia Altobello's career background includes: modeling, management of family real estate, executive in operations department of two major department stores in New York City which included working with police detectives and private investigators to help reduce employee theft and customer shoplifting. Virginia Altobello graduated from Key West Citizen Police Academy in 2006 and KW Ambassador Class in 2008. She is now retired but working part-time at Southernmost Hotel Collection and enjoying writing and has published two articles in the Miami Herald. She has also co-authored prize-winning play performed for New Plays in May Series at Waterfront Playhouse. **The City Commission appointed Virginia Altobello to replace Dr. Susan White and her term expires June 2010, but subject to renewal.**

Andrea “Trice” Denny, Member. Andrea Patrice Denny, known as Trice, is originally from LaBelle, Fla. She is a retired Navy journalist and now works as a public affairs specialist for Naval Air Station Key West. A six-year resident of Key West, Trice is also a City Ambassador and in her spare time, DJs at local radio station Island 107.1. **The City Commission appointed Trice Denny, to replace J. Rohrschneider and her term expires June 2010, but subject to renewal.**

Mike Driscoll, Member. Mike Driscoll was born and raised in New York City. Mike Driscoll joined the Navy in 1972 after graduating from high school. He initially intended to serve just four years in the Navy, but ended up serving over 33 years on active duty. One of his tours of duty brought him to Key West. Once Mike retired from the Navy, he did like many do and returned to Paradise 2005 to settle down. He holds membership in the following organizations: Veterans of Foreign Wars, Disabled Americans Veterans, Non-Commissioned Officers Association, Senior Enlisted Academy Alumni Association, and the Surface Navy Association. He is a member of the Key West Military Affairs Committee, Key West Art and Historical Society, Key West Maritime Historical Society, The Florida Historical Society and Library of Florida History, Navy League, Fleet Reserve Association, and the American Legion. He is an associate member of the Fraternal Order of Underwater Swimmers School, Key West, Florida. He is a member of the Patriot Guard Riders who show respect for our nation’s fallen heroes, their families and their communities. They shield the mourning family and their friends from interruptions created by any protestor or group of protestors and that is accomplished through legal and non-violent means. He is also a member of Moore’s Marauders, an organization that conducts expeditions around the world looking for and finding remains of those that have been declared missing in action. This provides closure for family members and returns those who have given their life for our freedom a final resting place in their own homeland. He has earned a career certificate in Corrections and a Bachelors Degree in History/Government. He is a certified SCUBA diver and a licensed U.S. Merchant Marine Officer. He currently serves as the Executive Director of Old Island Restoration Foundation a not-for-profit organization dedicated to the preservation of the architectural and historical culture of Key West. In his spare time he enjoys reading, fishing, cooking, scuba diving and gardening. He resides in Key West, Florida, with his wife Suzanne Runnels. **The City Commission appointed Mike Driscoll and his term expires June 2011, but subject to renewal.**

Mark Kielsgard, Esquire, Member. Mark D. Kielsgard is a 10 year resident of Key West and an adjunct professor of law, professor of international studies and a former law partner with Love, Kielsgard and Associates. He served as a trial and appellate lawyer who handled approximately 2000 cases, argued several

matters before the Virginia Supreme Court and had a case of first impression before the U.S. Court of Appeals. He received his JD from Rutgers University Law School and LL.M. from St. Thomas University School of Law and is currently completing his JSD in International Human Rights Law. Mr. Kielsgard has studied abroad in Austria, the Netherlands and Ireland, and is a Marie Curie Scholar from Leiden University. He has published several lead articles in academic journals -- translated in up to four languages -- in the areas of international security law, human rights, international criminal law, genocide, and international economic policy. He is finalizing his first book, which deals with the International Criminal Court, and has lectured and made presentations on human rights, civilian oversight of police, and terrorism before the American Civil Liberties Union and other groups. **The Board appointed Mark Kielsgard and his term expires June 2010, but subject to renewal.**

Reverend James Thornton, Member. Rev. Thornton is a 3-year resident of Key West and is the Pastor the historic Cornish A.M.E. Zion Church. He holds a B.A. in Elementary Education and a Masters of Science in Mathematics and a Masters of Social Work with a concentration in Clinical Psychology. He has enjoyed an extensive career as a teacher and minister, guidance counselor, social worker and community organizer. Rev. Thornton served on the Police Civilian Review Board in Louisville, Kentucky for three years and the Troy Housing Authority in New York for seven years where he also served on the Police Civilian Review Board. **Reverend James Thornton has resigned December 8, 2008, due to personal and professional commitments, from his Board position which was due to expire June 2009. The Board is currently in the process of interviewing replacement candidates for this open seat.**

IV. The Citizen Review Board's Responsibility

The CRB created by Key West voters on November 5, 2002, has the authority to review and investigate citizen complaints involving Key West Police Department personnel and forward findings and recommendations to City management, the Chief of Police, State Attorney, other state and federal law enforcement agencies and/or grand juries. Pursuant to City Charter Provision 1.07 I (a), the CRB is independent of the Key West Police Department (KWPD), other municipal City departments, and to a great extent City Management and City Commission.

The CRB independence facilitates and guarantees CRB's review of complaints and its policy recommendations are done "in the sunshine" on a fair and impartial basis. The CRB's near autonomous structure and independence is a paramount characteristic required to successfully perform its functions under the City Charter.

The seven (7) board members of the CRB all live in Key West and are not employed by the City. The CRB staff works to ensure that all complaints receive a fair and objective investigation and, when necessary, a hearing. The CRB has retained the services of an attorney and in the past, a professional investigator and may recommend mediation or conduct independent inquiries, investigations and hearings.

The CRB is a neutral body designed to be a bridge between the community and the Police Department. It was designed to give the public confidence that accusations of misconduct made against an officer will be fairly and thoroughly investigated. In addition to being a neutral hearing body, the CRB offers a public forum for citizens who want to express their opinion on police-related issues.

V. The Complaint Review Process

Typically, CRB review of an allegation of misconduct is initiated by the filing of a written complaint. The complainant may contact the CRB office or obtain a complaint form and instructions from the Key West City website. All complaints received by the CRB office are forwarded directly to the KWPD Internal Affairs Bureau (IA) and the Chief of Police within two (2) days of receiving the complaint. IA generally has 45 days to complete an investigation or inquiry and forward findings to the Chief of Police, the CRB and the complainant. However, the CRB reserves the right to commence an independent investigation at any time.

The CRB Executive Director contacts the complainant to find out if the complainant is satisfied with the ultimate results of IA's investigation. This is usually accomplished by a confirmation letter affirming the complainant's position being mailed to the complainant and/or the complainant is advised of a public Board review of his/her file and encouraged to participate in the same. Additionally, when a complaint is returned to the CRB by IA, the Executive Director reviews it for completeness and writes an executive summary for the

Board after the completion of the IA investigation. The Board then reviews each allegation in each case, reflecting on the complainant's additional comments/testimony and IA's additional statements at a public meeting. The Board thereafter makes a recommended finding based on preponderance of the evidence.

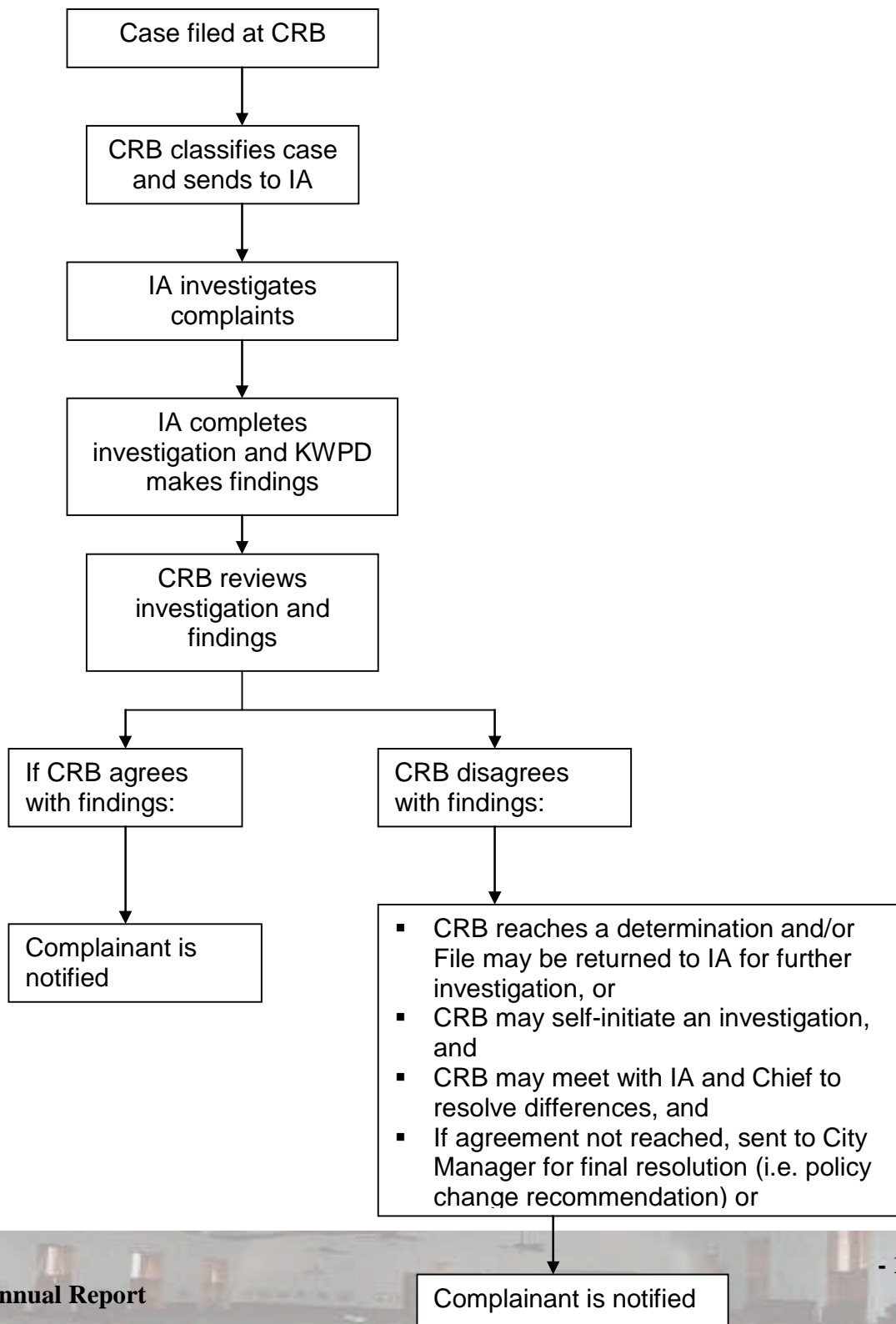
On the occasion, when the CRB review reveals that the IA investigation or inquiry is inadequate or incomplete, the CRB has the option of returning the file to IA or conducting its own investigation. Typically the CRB will refer the file back to IA and outline the areas that require further inquiry or investigation. The CRB also has the option to conduct its own investigation employing its own private investigator and has exercised this option on several occasions. Following the review of a complaint, the Board may also consider the policies that are in place that relate to the complaint.

At the conclusion of the review or investigation, the CRB forwards its written findings and conclusions to the Chief of Police and to affected officers and, to the extent permitted by law, to the complainant. The Chief of Police must respond within 30 days if a response is mandated. The Police Chief and the City Manager have the sole responsibility for discipline.

During this review process, the Board also critiques the quality of the investigation and investigative process. This review and comment by the Board gives City and KWPD management the advantage of having a perspective that is not found in most communities. This transparent process allows for the citizenry to participate in its government and to inspire confidence in the KWPD disciplinary process. The mere existence of civilian police oversight boards, like the CRB, has been considered by NACOLE as deterrence to unprofessional police conduct which logically would result in the reduction of formal filed complaints from citizens.

Figure 1, to follow on next page, outlines the typical complaint processing procedure. However, at anytime during this process the CRB can commence its own investigation.

CRB COMPLAINT PROCESS CHART



Of noted importance to CRB & IA operations and overall effectiveness, is Florida Statutes (F.S.) Chapter 112, Part VI, known as the "Officer's Bill of Rights". These Florida statutes require strict time limitations as to: (A) the release of information relative to IA investigations by the KWPD; and (B) the completion of an investigation by the KWPD. F.S. 112.533 (2)(a) states:

A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of such complaint shall be confidential and exempt from the provisions of s.119.07 until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or

2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges

F.S. 112.532 (6)(a) states⁴:

Except as provided in this subsection, no disciplinary action, demotion, or dismissal shall be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of such allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct. In the event that the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the action sought

The Citizen Review Board has the authority to independently investigate complaints and issue subpoenas if necessary. Under the very recent landmark precedent court case of Timoney v. City of Miami Civilian Investigative Panel (CIP), 990 So.2d 614 (Fla. 3rd DCA 2008) the City of Miami's police review board⁵, a sister municipal agency that generally is parallel in characteristics with the Key West CRB, was challenged in court when it exercised its powers to issue subpoenas and investigate the Chief of Police of the Miami Police Department. The trial and appeals court sided with the CIP and ruled that the CIP could investigate police and chief of police using the CIP's subpoena power authority via the Miami City Charter, outside the restrictions of the Officer's Bill of Rights.

⁴ F.S. 112.532(6)(a) enumerates five (5) limited exceptions to this mandatory 180 day time limitation for investigations completed and sanctioning announced .

⁵ The Miami CIP is an almost identical in nature, structure, power and responsibility as the CRB

VI. Fourth Annual Report January 1 2008- December 31, 2008

The files identified in this section are limited to the complaints received or forwarded to the CRB dealing with civilian complaints against sworn officers of the KWPD during the reporting period. A schedule of IA 2008 files which would include additional "internally generated" complaints is attached as "**Appendix A**" which was generated by IA and forwarded to the CRB for purposes of this Annual Report.

A. Summary of 2008 CRB Files:

During the reporting period, the CRB reviewed numerous files that overflowed from 2007 and issues arising during the reporting period. These are not represented below in order to expedite the creation of this Annual Report under the budgetary constraints placed on the CRB. The files addressed by the Board are as follows:

File #08-	Complaint (Last name)	Respondent(s) (Last name)	Allegation(s)	Disposition	Agreement with KWPD on Findings.
001	Millette	Hadas	Harassment; Traffic Violation; Truthfulness	NOT SUSTAINED as to all	Yes
002	Luna	Smith; Guevremont; Malgrat; Padron	Rudeness; Deficient Service; Untruthfulness; Unlawful Search.	NOT SUSTAINED; UNFOUNDED; UNFOUNDED; UNFOUNDED	No (partially) - only to Unlawful Search as IA's Conclusion was "EXONORATED" See specific file for details on this comment.
003	Kozak	Fernandez; Child; Currul; Chaustit	Deficient Service	NOT SUSTAINED	Yes
004	Sepulveda	Sims	Deficient Service	SUSTAINED	No (partially)-IA never considered this as a Complaint See Specific File for details on this comment.
005	Rosenstein	Barios; Cohens; Zamora; Stevens	False Arrest/Entrapment; Untruthfulness	NOT SUSTAINED UNFOUNDED	Yes

006	Harden	Betz; Kouri	Racial Profiling; Untruthfulness; Unlawful Search; Excessive Force	NO FINDING	Yes
007	Klosowski	Internal Affairs Dept.; Rodriguez	Deficient Service; Untruthfulness	Dismissed for failure to allege valid complaint	Yes
008	Smith	Sanchez	Discourtesy; Deficient Service	Mediated Out Between the Parties	Yes
009	Roberts	None specified	None specified	UNFOUNDED	Yes
010	Norris	Cohens	False Arrest	Withdrawn	Yes
011	Opp	Blasberg	Deficient Service	SUSTAINED	No
012	XXXXXXX	XXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXX
013	Fisher	Valdez	Discourtesy	Settled, Mediated & Withdrawn	No Finding Necessary (addressed in 2009 meetings)

XXXXXXXXXX-Represents that the complaint is an “active” and confidential under F.S. 112.533 (2)(a). For a more complete and more accurate description of the file you should place a public records request upon IA and/or the CRB.

In addition to the above referenced files, the Board addressed **7** files in 2007 which overflowed into the reporting period. For a complete review of these items not mentioned in the chart above, the reader is referred to the 2007 & 2008 CRB minutes which are online at the CRB website⁶. Further, the CRB staff addressed **5** lodged files during the reporting period. Lodge files are described as those files in which a complainant did not wish to file a formal complaint but requested the CRB to interface with the KWPd to resolve an administrative issue which could later lead to a possible complaint.

Total files addressed/reviewed by the Board and the lodged files addressed by the CRB staff amount to 25 during the reporting period.

⁶ For example the “Unuvar file” was filed in 2007 but consumed much of the CRB agenda, time and resources in 2008. This particular file will be discussed in detail later in this report.

B. Issues of Concern During CRB 2008 File Reviews:

The vast majority of internal investigations by IA have been handled in a professional and timely manner and the CRB commends the Professional Standards Office and IA for their efforts in 2008. This section, and its critical analysis of the IA process, should not eclipse such professional efforts. This section is meant to be constructive in its critical review of some issues that came to light in 2008.

1. Untimely Processing of an IA Complaint:

During the reporting period, a notable complaint was not concluded by IA during the 180 day period or it has been untimely forwarded to the CRB leaving no time for any meaningful CRB review and input prior to the expiration of this 180 day period. This file is known as the "Unuvar complaint" (CRB File #07-006 which was filed in 2007 but not resolved until 2008) which will be more fully described herein. This delay has proven to undermine the CRB's advisory function and/or disenfranchise the CRB from participating in the disciplinary process. Further, any delay in any investigations is prejudicial to the overall public's confidence in the disciplinary process, prejudicial to the charged officer who remains under the cloud of suspicion during extended periods of time, increases the chances of loss, destruction and/or misplacement of material evidence and/or fading of witnesses' memories or loss of witnesses' identities and/or locations.

Mr. Suleyman Unuvar's complaint stems from a traffic stop on June 20, 2007, by Officer Luis Sanchez. Mr. Unuvar alleged officer Sanchez used excessive force upon his person. Mr. Unuvar claims that he originally complained to the KWPD in June 2007 directly to former Chief Mauldin⁷. The KWPD has taken the position that Mr. Unuvar filed his complaint on October 7, 2007 when he first complained to the CRB. This discrepancy is important due to the 180 time limit on investigations under the Officer's Bill of Rights. The ultimate conclusion of the IA investigation, which the CRB felt was insufficient in itself and needed to be redone in parts, was completed by IA in 170 days if the complaint's filing date was on October 7, 2007. If the filing date was sometime in June 2007, as Mr. Unuvar claims he first alerted the KWPD to the situation and requested an investigation, then the running of the time period in the Officer's Bill of Rights had

⁷ There is a fax cover sheet authored by former CRB Executive Director Amanda Willet to former Police Chief Mauldin dated October 7, 2007, which references a conversation that Mr. Unuvar had allegedly had with Chief Mauldin sometime in June 2007 relative to his complaint.

long since lapsed. The lapse of the 180 day under the Officer's Bill of Rights generally prevents any type of disciplinary sanctioning of the subject officer, regardless of the ultimate findings.

Chief Donald Lee has reassured the CRB that timeliness of complaint processing is of paramount importance and prior delays under other police administrations will not re-occur under his Professional Standards Office. The CRB has recognized the prejudice any apparent delay in any file may cause and is committed to monitoring the progress of files referred to IA and timely render a CRB advisory opinion or finding by instituting the following actions:

1. As of November 2008, by adoption of a "CRB Tracking Chart", a sample of which is demonstrated by "**Appendix B**";
2. As of November 2008, addressing files after the lapse of the 45 day time period at the next scheduled CRB meeting to determine if the file is "inactive", "closed" or "active" under the Florida Officer's Bill of Rights as of November 2008;
3. As of November 2008, adopting a policy of commencing its own investigation after the lapse of this 45 day time period of the Officer's Bill of Rights if, after inquiry to IA, the CRB has serious doubts that IA will timely complete the investigation and/or IA has not diligently proceeded in attending to the complaint and/or there is no reasonable certainty that IA will complete the investigation within the 180 day time frame dictated by the Florida Officer's Bill of Rights; and
4. The CRB Executive Director has scheduled monthly meetings in the year 2009 with the Chief of Police, Donald Lee, and the IA staff to evaluate the timeliness of completion of pending IA investigations which were referred to IA by the CRB.

2. Questionable Integrity of the KCPD I-COP system

The I-COP audio/visual system in Officer Sanchez's vehicle was at best being improperly operated by Officer Sanchez.⁸ The existence of this critical evidence should have presumably supported Officer Sanchez's claim that his degree of force against Mr. Unuvar was reasonable⁹. The

⁸ A total of two police units equipped with ICOP systems were involved in the incident and both systems rendered virtual useless, if not non-existent, recordings.

⁹ IA's "Conclusion & Finding of Fact for PS07-026" memo dated March 23, 2008 stated "*There is insufficient evidence to prove or disprove the allegation of Excess use of force.... Had Officer Sanchez utilized his in car video system correctly at the time of the incident, it is possible this complaint may have been resolved with a sustained or*

KWPD found the allegation as "Not Sustained" and recommended remedial training for Officer Sanchez so that he could improve his skills on operating the ICOP system.

The CRB extensively held meetings on this issue and was resolute in its insistence that IA be more complete with its investigation and re-interview a material witness. Ultimately, the Board voted that, by preponderance of evidence, the charge of excessive force was "Sustained" as to Officer Sanchez. The Board recommended three (3) days of unpaid suspension and remedial training. The Board also requested re-evaluation of the KWPD ICOP program and reassurances from Chief Donald Lee that future IA investigations would be more timely and more complete.

The Unuvar file, and CRB's critical analysis of both the IA work-product and the KWPD department procedures, resulted in a complete re-evaluation of the ICOP program and redrafting of KWPD standard operating procedures relative to the ICOP program. To Chief Lee's credit, he invited the CRB members to attend the department wide re-training sessions regarding this system. However, under the revised I-COP system, it is the CRB's understanding that the I-COP units can still be manually turned off by the officer under certain circumstances even when the emergency lights of a unit are in operation

3. Failure of IA to voluntarily handout CRB Brochures to complaining parties:

One further defect in the complaint process that the Unuvar file identified is that the KWPD did not have any CRB literature to distribute to citizens who complained directly to KWPD and not with the CRB. Had such literature been distributed to Unuvar, he may have contacted the CRB sooner and thus the 180 day limitation period relative to IA investigations could have been more timely attended to by IA, with the CRB monitoring the progress.

Often visitors or tourists do not know of the existence of the CRB and naturally file their complaint with IA directly. This then disengages the protective devices that the City Charter mandated when it established the CRB. The Executive Director Muffler has delivered 30 CRB colored informational brochures to IA on January 6, 2009 with a request for IA to physically make said brochures available to all civilian complainants who approach IA with a complaint. As of the final draft of this Annual Report, Chief Donald Lee has communicated to Executive Director Muffler that such a procedure will be

exonerated classification depending on the content of the video. His video system should be utilized every available moment when accessible in an effort to capture incidents such as this one in their entirety"

adopted by the KWPD. This is a positive step in the right direction and has increased harmony between the two departments.

4. Failure of Officers to Attend the Meetings.

Although there is no mandatory attendance requirement by subject officers before the Board, such attendance would help facilitate a timely and fair resolution of the matter. Further, the appearance of the specific officer before the Board reflects genuine good faith and a concern by the subject officer. Since October 2008, all respondent officers have been, in writing, invited to attend, either personally or through a union or legal representative, the relevant CRB meeting. Unfortunately, no invitation has been accepted by the subject officers and/or their representatives. Such unilateral rejection of these extended invitations is not a positive step towards building working relationships between the Board, KWPD management and the Police Union and its members.¹⁰

5. IA's blanket refusal to continue or commence ANY investigation under certain circumstances.

Of troubling concern is the policy adopted by IA to refuse to investigate a citizen's complaint if the complainant is facing pending criminal charges stemming from the interaction with the subject officer. Thus, many, if not the majority of complaints referred to IA, are simply not acted on and dismissed by IA with a letter and no investigation. IA has adopted this standard operating procedure to avoid infringing on 5th Amendment rights of the complainant who is facing pending criminal charges arising out of the incident or interaction or to affect any underlying related criminal case prosecution of the complainant. This standard operating procedure is applicable even if the complainant wishes to proceed regardless of prejudicing their 5th Amendment rights.

However, IA is willing to reconsider the complaint after the criminal charges are settled should the complainant re-file the complaint. This standard operating procedure often results in the complainant abandoning their complaints completely and/or delaying a complaint for long periods, sometimes over two years.

¹⁰ There are reasonable explanations for officers non-attendance which include conflict of work schedules, personal commitments and alike. However, the CRB would welcome a police union representative to attend on behalf of officers to explain the officer's position. The CRB would also welcome a police union representative to give a presentation to the Board on Union processes to improve the relationship between the CRB & Police Union.

A case on point is the "Omar Brown File". Mr. Omar Brown alleged that Officer Pablo Rodriguez "lied" on an arrest affidavit under oath. Specifically, Mr. Brown alleged that Pablo Rodriguez has never arrested Mr. Brown before, contrary to Officer Rodriguez's sworn arrest affidavit which stated he had. Mr. Brown wished to proceed forward with his complaint, even though he was facing a pending criminal trial relative to the arrest. IA refused to proceed and the CRB decided on January 12, 2009, to proceed forward with an independent CRB investigation if IA or the subject officer would not cooperate voluntarily.

The better practice would be for IA to get a voluntary statement of waiver of the 5th Amendment rights by the complainant, by and through the complainant's defense attorney, and proceed expeditiously should the complainant want to proceed forward with their complaint even if they are facing pending criminal charges. In the Omar Brown file, IA simply had to locate the subject affidavit, research Mr. Brown's prior arrests and determine if Sergeant Pablo Rodriguez was the arresting officer or not. Such a limited investigation by IA would not entail approaching Mr. Brown for any statement, other than the original complaint's contents, and thus bypassing any 5th Amendment issue. The responsibility to commence any investigation in a timely manner now rests with the CRB relative to this particular file due to the forgoing KWPD policy

6. Internal Affairs Representatives are members of the Police Union.

It has come to the attention of the CRB that the Director and Inspector of the Office of Professional Standards & IA, the primary if not exclusive KWPD investigators of complaints against officers, are union members. While the CRB appreciates and values all unions and acknowledges their importance in the workplace, such union membership reflects an appearance of partiality and conflict of interests. The Union defends and represents officers during IA investigations and their own members (IA staff) are investigating their fellow union members.

Although these IA representatives are very professional, such a conflict of interest and/or the mere appearance of this conflict of interest, should be eliminated in police operations. Further, it places these same IA representatives in a difficult position investigate their fellow union members and report to the CRB on these investigative results.

The CRB proffers an recommendation to correct this material issue/situation via the Recommendation section of this report to eliminate the appearance

of partiality and would build the public's confidence that all complaints are being diligently investigated by IA and eliminate even the appearance of a conflict of interests.

C. Summary of CRB independent investigations and/or research during 2008:

As stated previously in this report, the Citizen Review Board has the authority to independently investigate complaints and issue subpoenas if necessary as verified by the landmark precedent case of Timoney v. City of Miami Civilian Investigative Panel (CIP), 990 So.2d 614 (Fla. 3rd DCA 2008). During the reporting period, the CRB has conducted the following three (3) investigations and/or independent research/evaluations.

1. **Suleyman Unuvar File:** The factual background of this case was previously outlined above. After the IA 170 day period of investigation, the file was transferred to the CRB for review. The CRB questioned the completeness of the IA report and the credibility of its findings. The CRB requested IA to readdress portions of the investigation. After the CRB request was not sufficiently attended to, the CRB questioned a material witness that had since left the department and relocated outside the state of Florida. The CRB conducted a phone deposition of this witness to help clear up lingering questions that the IA investigation failed to completely address. Upon the completion of its limited investigation, the CRB voted to Sustain the excessive force against officer Luis Sanchez. Without the CRB investigation, critical answers to material questions from this witness would not have come to light for consideration by the CRB.
2. **Michael Rosenstein file:** Mr. Rosenstein filed a complaint and alleged that the arresting KWPD officers misrepresented the existence of incriminating evidence that allegedly supported drug charges against him. Mr. Rosenstein alleged that this incriminating evidence did not exist and was never proffered to his defense attorney in his criminal case. The CRB felt that IA conducted an incomplete investigation and failed to either clear or substantiate such serious allegations against KWPD members. The CRB authorized an independent investigation.

Executive Director Muffler contacted the State Attorney's Office and reviewed the relevant court file at the Clerk of the Courts office. Executive Director Muffler also placed a public records request on the KWPD records division. Said efforts resulted in securing a State Attorney's

Discovery filing showing the existence of the evidence and also the availability of the evidence for review by/to Mr. Rosenstein's defense counsel. Further, pictures and audio/visual of the undercover "sting" operation and arrest of Mr. Rosenstein was secured. The discovery of these items proved this incriminating evidence did exist and the respondent officers did not misrepresent its existence. Board Member Mark Kielsgard interviewed Mr. Rosenstein's public defender who explained that Mr. Rosenstein accepted a plea bargain which ceased all discovery in his case. Thus, any state's evidence that could be discovered, was not sought by the defense attorney.

Therefore, the Board found that the charges were "Unfounded" because the evidence did exist and Mr. Rosenstein failed to take advantage of standard discovery mechanism to review it in his criminal case. Without the CRB investigation, the subject officers would have had a perpetual cloud of suspicion over their reputations.

3. **Omar Brown File:** As stated in section VI(B)(5) of this Annual Report, Mr. Brown desired to proceed with his complaint against Sergeant Pablo Rodriguez even though he was facing pending criminal charges arising out of his subject arrest. IA refused to proceed, even though Mr. Brown desired the matter to be investigated immediately. The CRB authorized public records research into the existence or non-existence of the sworn arrest affidavit by Sgt. Rodriguez and if its contents actually stated that Sgt. Rodriguez arrested Mr. Brown before. The CRB did not pass on the issue if such allegation was truthful or not, as that issue would not be reached if the sworn statement never existed. The CRB Executive Director Muffler reviewed files at the Clerk of the Court's Office, contacted the State's Attorney's Office and the Public Defender's Office. Eventually, the sworn affidavit was secured and did contain the statement that Sgt. Rodriguez did attest to this alleged prior arrest by himself of Mr. Brown. The CRB then was presented with this evidence and decided to commence its own independent CRB investigation if IA or the subject officer will not cooperate. Without this independent CRB research of public records, this material document would have never reached the Board's attention for any type of review. This complaint is still pending before the CRB.

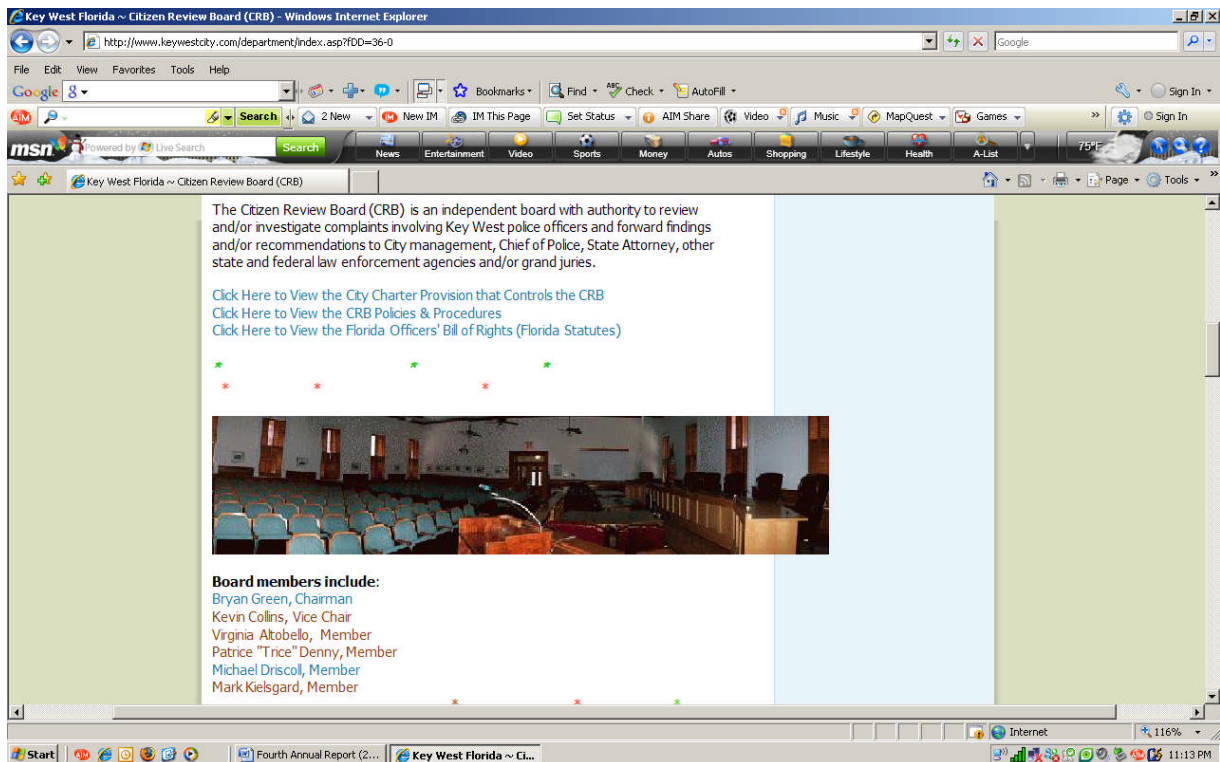
VII. Increasing the Transparency of the CRB Operations

Commencing October 2008 Executive Director Muffler commenced significant reformation of the CRB standard operating procedures relative to the CRB internal operations. The cornerstone of such efforts is the development of the new CRB website which can be located under the "CRB" department link from the City's homepage located at www.keywestcity.com

A "user friendly" webpage now provides 24 hour access by the public of:

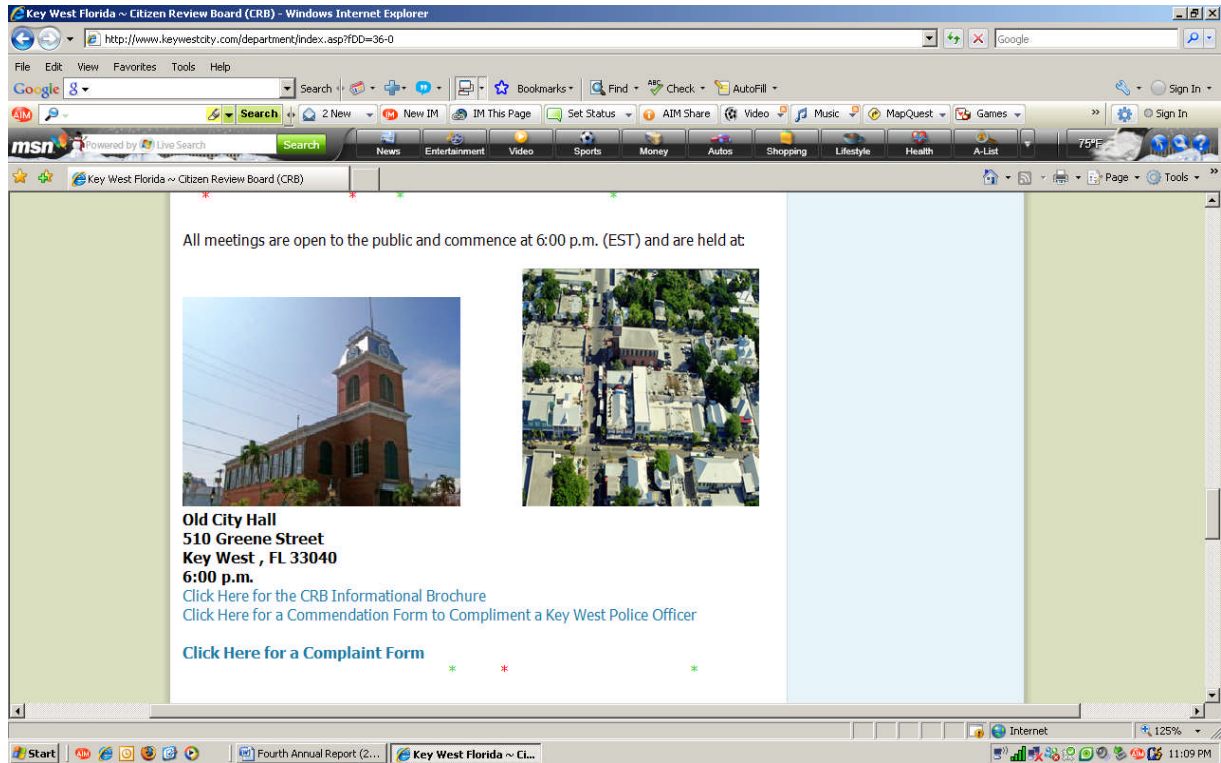
1. The City Charter Provision 1.07 which creates the CRB;
2. The CRB Policy and Procedures; and
3. The Florida Officer's Bill of Rights & the Timoney Case;

These are represented in **Figure #4**



4. A full colored downloadable CRB Brochure explaining the entire CRB complaint process;
5. A downloadable commendation form to compliment an officer; &
6. A downloadable complaint form to complain against an officer;

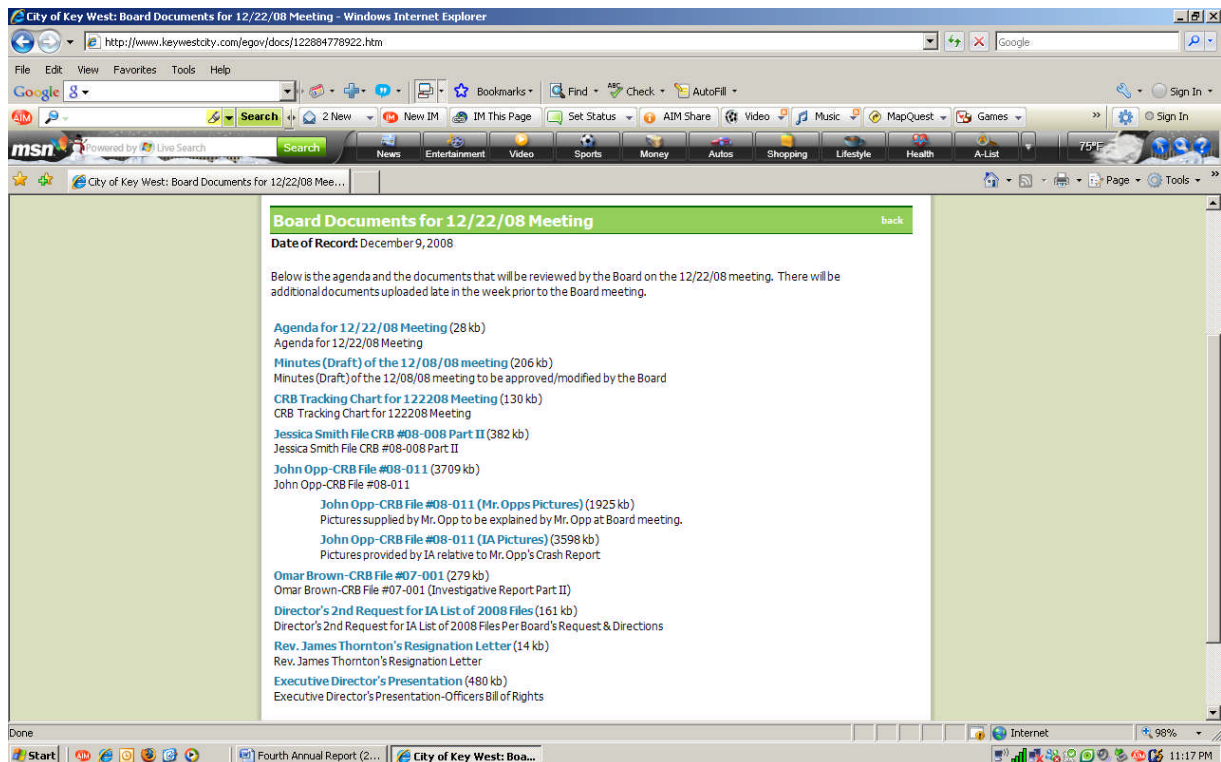
Figure #5 represents these links.



7. The entire CRB 2009 meeting schedule;
8. Useful NACOLE 2008 materials;
9. CRB Staff Credentials; &
10. Ability to sign up for CRB Quarterly e-mail Newsletters commencing in 2009.

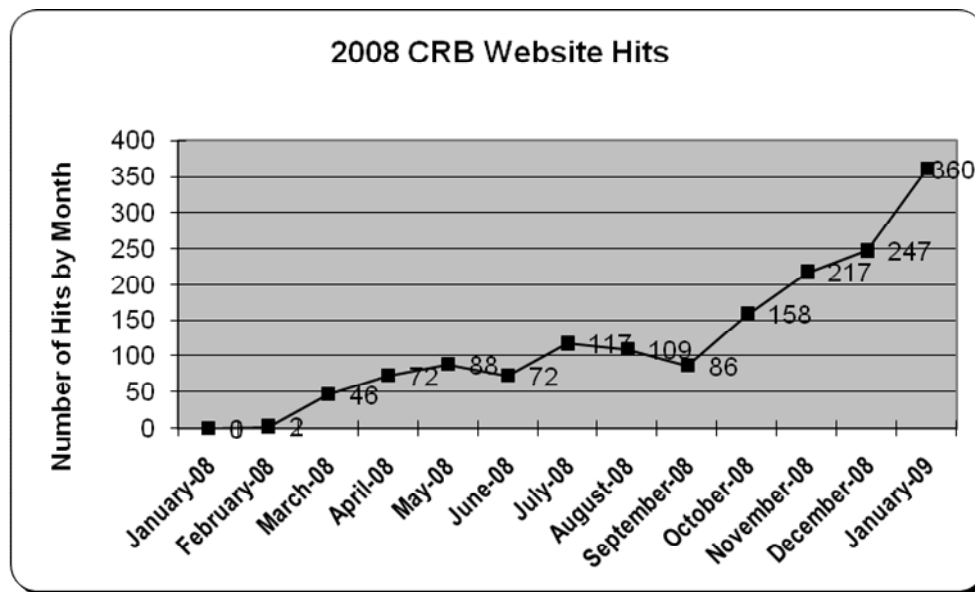
Further, this access provides IA with a platform to demonstrate the effectiveness and completeness of each of its investigations. Finally, the Board members now receive their file documents via this delivery method and thus has saved the City thousands of dollars in copier costs, paper, manpower for reproduction, storage space, delivery charges and alike.

Figure #6 shows a typical meeting's documents viewable by specific hyperlinks which download forms in pdf format.



The advantages of the foregoing has opened up the transparency of the entire review process, permanently archived these critical documents safe from hazards and allows all of the City's residents to truly see their government in action. The public seems to have embraced this new era of transparency the CRB website has facilitated.

Figure #7 on the next page represents the web visits, tracked by the City's IT department shows a noticeable increase in hits to the CRB website.



VIII. Recommendations by the CRB

The CRB would not be fulfilling its obligations under the City Charter without proffering recommendations to improve police accountability, promote police professionalism in the KWPD and build public confidence in the IA's and CRB's efforts to "police the police". The paramount recommendation from the CRB would have been the joint execution of the CRB & KWPD "Working Agreement" if it had not been executed prior to the release of this Annual Report.

The CRB is pleased to report that said agreement was negotiated during the last quarter of 2008 by Executive Director Muffler and Chief Donald Lee and entered into force in January 2009. Its provisions will promote unity and cooperation and be mutually advantageous to both City departments and serve the citizenry's interests in an efficient and effective government.

This "Working Agreement" will address many of the CRB apparent concerns raised in this Annual Report. The CRB recognizes this as a historical milestone ushers in an unprecedented level of cooperation between the CRB and the KWPD. Such a milestone would have never been reached without Chief Donald Lee's strong commitment to assuring public input and participation in governmental oversight advisory systems. Copy of this "Working Agreement" is attached hereto as "**Appendix C**".

Pursuant to City Charter Provision Section 1.07(X), the following recommendations are respectfully submitted to all stakeholders and should be addressed by the City Commission, City Management and the KWPD management forthwith:

1. The CRB office is temporarily relocated from its former public location on Eaton Street, to a trailer located inside Truman annex, removed from the general public and bus routes. This has been the result of budgetary constraints placed on the City to be unable to afford rental for CRB offices. The CRB understands this practical situation and is appreciative of said new temporary location. However, the CRB suggests that if it is financially possible, upon the completion of the new City Hall, the CRB office have its own individual private entrance on the first floor so it is accessible by the general public which will reflect CRB's its independent nature mandated by the City Charter;
2. The CRB requests that the "clerical assistance" mandated by the City Charter 1.07 IX (c), should be funded to support a part-time assistant for the CRB office once the city's general budget begins to run in the black. This will allow the Executive Director to use his limited time doing meaningful tasks which include conducting investigations, meeting with city and police officials, interfacing with community activists, attending community functions, conducting police "ride-alongs" and generating detailed Annual Reports, instead of attending to clerical activities. Again the CRB is appreciative of the funding it presently has and understands the financial shortfalls that local governments are facing so this additional funding may not be practical at this time;
3. The CRB recommends that KWPD Office of Professional Standards & IA members be non-union. City Management should conduct a "Best Practices" review of police departments across Florida to determine if KWPD has an abnormal percentage of "Union Membership" presence in such a department.

In the alternative, the KWPD Chief of Police should recognize this apparent conflict of interest and remedy it accordingly by hiring an "Inspector General" to head the IA department. This "Inspector General" should be a non-union member, with no ties of previous union associations with the present police union and who reports directly to the Chief of Police, as a member of the Chief of Police's Office, and to be the "point" person to interact with the CRB and dispel any appearance of "conflict of

interest". The CRB recommends that the Inspector General only dedicate his/her time to internal affairs items and not the other duties tasked to the Professional Standards Office. Only reporting to the Chief of Police, makes this individual autonomous entity from other police departments, separate from high ranking police officers who are union members in the KWPD office and thus limiting any possible improper influences on his/her judgment when investigating files;

4. The CRB requests that City Management and KWPD management direct IA to hand each complainant a CRB colored brochure and codify such a operating procedure in the KWPD operating directives. This item has been addressed in the "Working Agreement";
5. When the City's financial situation allows, the CRB Director should be afforded the same benefits as other city department directors which should include health insurance. This will elevate the inter-government respect for the CRB, attract and retain the best possible talent, guarantee that the operations of the CRB are not abandoned by its only staff member, should that staff member become ill and/or injured and be without health insurance or coverage;
6. Under the revised I-COP system, it is the CRB's understanding that the I-COP units can still be manually turned off by the officer under certain circumstances even when the emergency lights of a unit are in operation. The integrity of this recording system, and its usefulness, is undermined when such manual termination of the recording process is available to officers, who are below the supervisory rank. The CRB has no authority to mandate that such systems be continuous when activated until such time as the activation (unit emergency lights) are turned off. However, such a policy (ie. no manual deactivations by the drivers of the units) would boost the credibility of the entire I-COP program;
7. The City attorney should evaluate if the CRB's representative should be invited to participate in current and future union bargaining rounds relative only to officer's disciplinary procedures so that the CRB's legal status and its procedures are duly represented at such rounds and that no ultimate agreement violates the powers and authority vested in the CRB via the City Charter and Florida law. This is critical essentially to guard against any negotiated disciplinary timelines that do not account for the CRB advisory opinions to be timely considered before the discipline is rendered;

8. The CRB, being a City Charter entity, should have one screen viewing shot displayed on the city's informational channel which rotates during off air time and which describes the CRB's functions and contact information. This will be another informational mechanism to increase the public's awareness of how their local municipal government is here to serve their interests;
9. The KWPD should offer a 45 minute seminar slot in its "Citizen Police Academy Program" (CPA) to the CRB to show the public how close the two departments work together and to assure police professionalism is at its highest standards. Currently the CRB does do a presentation to the City's Ambassador Program, and the CRB is very appreciative for this opportunity. However, if Chief Lee were to invite the CRB Executive Director to do an annual presentation at the CPA, this will reflect how important the CRB is in the overall police discipline procedure; &
10. Numerous inquiries have been received by the CRB director if the CRB meetings would be televised on cable TV. When it becomes financially and technically feasible, the CRB would respectfully request that its meetings be aired on cable TV to continue its movement towards a more open government.

In closing, the CRB again would like to stress its highest respect and regard to the men and women of the KWPD who truly are protecting paradise. Nothing contained in this report should overshadow the CRB's steadfast support and admiration of our police department, its members and its current leadership.

Appendix A

Complainant	Complaint	Disposition/ Date Closed	Ofc. Involved	Case No.	Date Filed	Finding : <i>See file for complete information</i>
Kozak	Deficient Service	Closed 04/04/08	Child, Fernandez Sgt. Currul	PS 08-001	02/07/08	Sustained for all Officers involved
Millete	Truthfulness	Closed 03/13/08	Hadas	PS 08-002	02/20/08	Unfounded
Luna	Rudeness Truthfulness Deficient Service Illegal Search	Closed 06/03/08	Padron, Malgrat, Guevremont R. Smith	PS 08-003	02/20/08	Count 1: Not-Sustained Count 2: Unfounded Count 3: Unfounded Count 4: Exonerated
KWPD	Unbecoming Conduct Unlawful Conduct Violating IA Procedure	Closed 05/29/08	Neary	PS 08-004	08/21/07	Count 1: Sustained Count 2: Unfounded Count 3: Sustained
KWPD	----- N/A-----	Closed 07/18/08	Rauen	PS 08-005	04/04/08	Unfounded
KWPD	Decorum Violating IA Procedure	Closed 08/19/08	Winter	PS 08-006	05/02/08	Count 1: Sustained Count 2: Sustained
Johnson	Deficient Service	Closed 05/28/08	Kouri	PS 08-007	05/13/08	Count 1: Unfounded
Neary	Report and Documents Unlawful Conduct	Closed 06/11/08	R. Allen, Benkoczy	PS 08-008	05/10/08	Count 1: Unfounded Count 2: Unfounded
Neary	Reports and Documents	Closed 06/26/08	T. Smith	PS 08-009	06/26/08	Count 1: Sustained
Hardin	Racial Profiling Truthfulness Excessive Force	Closed 05/19/08	Betz, Kouri	PS 08-010	05/15/08	Court Issue *Summary review found no policy violations
KWPD	Truthfulness Truthfulness Reports and Documents, Unlawful Conduct	Closed 10/09/08	K. Thomas	PS 08-011	05/28/08	Count 1: Exonerated Count 2: Sustained Count 3: Sustained Count 4: Sustained
XXXXXX	Deficient Service	OPEN	XXXXXX	PS 08-012	07/09/08	
Chrisco	Unbecoming Conduct	Closed 07/23/08	Valdes	PS 08-013	07/23/08	Count 1: Unfounded
KWPD	Unbecoming Conduct	OPEN	XXXXXX	PS 08-014	08/13/08	File is in final stages of completion.
XXXXXX	Rudeness	OPEN	XXXXXX	PS 08-015	11/14/08	Interviews currently being conducted.
XXXXXX	Rudeness	OPEN	XXXXXX	PS 08-016	12/15/08	Interviews to be conducted shortly.

Appendix B

Complainant	CRB Case No.	Date Filed with CRB	Date Forwarded/Filed with KYPD	45 Day Limitation	180 Day Limitation	Nature of Complaint & Notes
PENDING COMPLAINTS						
Smith, Jessica	08-008	10/6/08	10/6/08	11/21/08	4/6/09	Discourtesy—IA has not responded as to a determination yet. IA has reported at 12/08/08 meeting that it might have received a complaint but thought complainant had abandoned complaint b/c complainant had not returned phone calls. IA commenced an investigation but unclear as to the date it started or if it has concluded. Parties conducted mediation and resolved issue on 12/11/08. Complainant wishes to withdraw her complaint.
Opp, John	08-011	10/28/08	10/28/08	12/12/08	4/27/09	Deficient Performance—Mediation Recommended by Executive Director. Complainant Agrees to Mediation, Subject Officer has not responded to mediation offer as of yet. IA has reported that they looked into the matter and saw no merit to the claims. IA considers this matter closed with no finding of professional misconduct.
XXXXXXX (Name to be provided when File becomes public record)	08-012	12/15/08	12/15/08	01/29/08	06/13/08	XXXXXX—IA has not reported with their investigation results at this time.
FILES DEFERRED BY CRB						

Harden, Greg	08-006	5/15/08	5/15/08	6/29/08	11/16/08	Untruthfulness/Unlawful Profiling—Board has ruled “No Finding” as to the allegations to give the Complainant 2 months time (from 11/25/08 date) to re-file allegations or to produce new evidence.
Norris, Dwayne	08-010	10/20/08	10/20/08	12/4/08	4/19/09	Harassment/Unlawful Arrest—IA has not responded and announced at the 12/08/08 meeting that IA never received this file from CRB. CRB Instructed Executive Director to draft a letter to Mr. Norris and his attorney to inquire if they wish to dismiss this complaint and refile after Mr. Norris’ criminal case is completed.
COMPLAINTS UNDER CRB INVESTIATION:						
Brown, Omar	07-001	3/7/07	3/7/07	4/21/07	9/6/07	Untruthfulness— CRB has opened up a limited investigation into securing and reviewing arrest warrants, affidavits and deposition transcripts/recordings relative to the allegation of Officer Rodriguez statement that Officer Rodriguez has arrested Mr. Brown previously (rest of complainant’s allegations were not addressed by the Board b/c they are beyond the scope of the Board’s review) Per Board’s directions, one page police report/incident report should be secured by Executive Director that was allegedly authored by Officer Rodriguez and shows up as an item on the State Attorney’s Discovery Disclosures but not available in courthouse file.



Board Correspondence Requiring Responses/Action			Date Sent to Recipient	Deadline to Respond (if applicable)		
Board Request for Copies for ICOP Final Operating Procedures adopted by KWPB			Sent to IA via Meeting on 12/8/08 and mentioned at prior meeting of 11/24/08 by Kevin Collins			
Board & KWPB have sent final version of “Working Agreement” to City Attny. Office and awaiting final comments/approval before signing			Sent via E-Mail by CRB and Hand Delivered by Chief Lee on or about October 30, 2008			



Appendix C

WORKING AGREEMENT

WHEREAS the City of Key West Police Department (KWPD) is charged, in part, with protecting and serving the citizens and general public;

WHEREAS the Citizens Police Review Board (CRB) is charged, in part, with providing the citizens of Key West and the general public a forum to address police professionalism issues;

WHEREAS the parties have mutual interests in increasing police professionalism & maximizing public and officer safety, reducing miscommunications between their respective departments and fostering the public's confidence in KWPD services;

WHEREAS the parties recognize that if one department falls short in their public mission the other also fails and if one department succeeds, the other also succeeds;

NOW THEREFORE, the parties enter this Working Agreement (Agreement) this ____ day of _____, 2009 to take effect forthwith as follows:

1. The KWPD, by and through its Professional Standards Office (PSO), will forward or make available copies of all completed internal affairs investigations (whether internally generated or externally generated) to the CRB Executive Director within three (3) business days from the first available day for copying under F.S. 112.533(2) (Officers Bill of Rights) and Florida public records law. The CRB will direct the CRB Executive Director to assist in the clerical efforts of reproduction of these files so as to minimize the PSO's manpower disruption.
2. The files referenced in #1 above will contain the summary of available disciplinary history and commendations of the respondent officer(s) which are available under Florida public records laws. The CRB will be sufficiently advised from time to time that said disciplinary history and commendations are not relevant to any pending complaint against an officer in absence of evidence that the officer has engaged in prior conduct similar to the alleged conduct at issue in the pending case.
3. Paragraphs #1 & #2 above shall represent CRB's standing and ongoing request for public records under F.S. 119.07 and other applicable public records laws. Said records shall be redacted in

accordance with Florida's public records laws and released in accordance with the Officer's Bill of Rights Florida Statute 112.532 et. seq. (Officer's Bill of Rights).

4. The CRB shall extend an invitation to each respondent officer, whose location is reasonably ascertainable, to attend its applicable public hearing addressing that respondent's file. The subject officer may attend and address the CRB directly, through the officer's designee, the officer's union representative and/or the officer's attorney. Said designee will not be the PSO designee mentioned in #8 below to avoid any appearance of conflict of interests or impropriety.
5. The KWPD, by and through PSO, will present each complaining party a CRB informational brochure at the time they formally file an administrative complaint (whether internally or externally generated) with the KWPD concerning any officer of the KWPD. A copy of the brochure jointly agreed to by the CRB and KWPD is attached hereto as Exhibit "A". The CRB Executive Director will provide sufficient copies of said informational brochure to the PSO.
6. The CRB members and its Executive Director, as their schedules permit, will participate in "ride-alongs" with the KWPD to help understand the daily working conditions facing the KWPD members. Said obligation shall not be mandatory upon the CRB members but the CRB Executive Director shall participate in such activities, as his schedule permits. The CRB Executive Director shall report on a yearly basis, commencing November 1, 2009, the names of the CRB members who attended a ride along during the preceding year.
7. The CRB Executive Director, as his schedule permits, attend KWPD training sessions in an effort to educate the CRB members in applicable KWPD training methods that relate to CRB reviews of files.
8. KWPD PSO, by and through a designee, will attend CRB meetings to help explain and educate the CRB in issues relative to the applicable file before the CRB and other standard operating procedures so that the CRB can reach an informed and equitable resolution of the subject matter before the CRB. PSO's designee shall be primarily available to the CRB to present KWPD's policies, regulations, PSO's investigations and findings on each file.
9. The CRB Executive Director and the KWPD designee will work closely to present a joint statistical summary report to the CRB, on an annual basis commencing for the year 2009, addressing a summary

of the files completed by PSO for each applicable year and which fall within public records and not in violation the F.S. 112.532 et. seq (Officers Bill of Rights).

10. The CRB standard complaint form will be harmonized as much as practical with the KWPD PSO complaint form so as to avoid any types of conflicts.
11. The CRB and KWPD shall conduct themselves in a professional and respectful manner during all interactions.

This Agreement shall not be interpreted to conflict, replace, waive or violate Florida law (Public Records Laws, Officer's Bill of Rights and alike), the City of Key West's Charter, or the police union's collective bargaining agreement. If one provision violates any of the forgoing laws or agreements, then it shall be null and void and the remaining parts of this Agreement shall remain in full force and effect. Either party may terminate this Agreement by giving a thirty (30) day written notice to the other party.

Citizens Review Board
By:

Bryan Green, Chairman

COMPLETED

Key West Police Department
By:

Donald J. Lee, Jr.
Chief of Police